

ESTTA Tracking number: **ESTTA640194**

Filing date: **11/20/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Goya Foods, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	100 Seaview Drive Secaucus, NJ 07096 UNITED STATES		
Attorney information	Ryan McGonigle Baker and Rannells, PA 575 Route 28 Suite 102 Raritan, NJ 08869 UNITED STATES officeactions@br-tmlaw.com Phone:9087225640		

Applicant Information

Application No	86147227	Publication date	10/21/2014
Opposition Filing Date	11/20/2014	Opposition Period Ends	11/20/2014
Applicant	Goza Tequila, LLC 1109 Valley Overlook Dr., NE Atlanta, GA 30324 UNITED STATES		

Goods/Services Affected by Opposition


Class 033. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: Distilled Spirits


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3210454	Application Date	08/26/2005
Registration Date	02/20/2007	Foreign Priority Date	NONE
Word Mark	GOYA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 033. First use: First Use: 1966/11/00 First Use In Commerce: 1966/11/00 Cooking wine


U.S. Registration No.	4210054	Application Date	03/10/2012
Registration Date	09/18/2012	Foreign Priority Date	NONE
Word Mark	SI ES GOYA TIENE QUE SER BUENO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 2001/05/00 First Use In Commerce: 2001/05/00 Fruit beverages; Fruit drinks; Fruit-based beverages; Fruit-flavored beverages; Non-alcoholic beverages containing fruit juices		

U.S. Registration No.	3001516	Application Date	07/16/2004
Registration Date	09/27/2005	Foreign Priority Date	NONE
Word Mark	...IF IT IS GOYA IT HAS TO BE GOOD		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 030. First use: First Use: 1968/11/00 First Use In Commerce: 1968/11/00 Tomato sauce; salad dressing; hot sauce, salsa, ketchup; hot pepper spice; alimentary paste, bakery goods, barbecue sauce, biscuits, breadcrumbs, burritos, candy, capers, cereal based snack foods, spices and seasonings, tortilla chips, chocolate for baking, coffee, corn chips, cookies, crackers, custards, empanadas, enchiladas, frozen entrees consisting primarily of rice or pasta, extracts used as flavoring, fajitas, flavoring syrup, flour; grain based food beverages, food starch; flavored, sweetened gelatin desserts; honey; noodles, picante sauce, puddings, chili sauce; table syrup, taco chips, tamales; vinegar, cocoa, pastries; rice, prepared entrees consisting primarily of rice, tapioca, yeast, treacle, salt, condiments, namely, sofrito, adobo, sazón, recato, marinades and mojo; wine sauce for cooking; food extracts consisting of a combination of annatto and lard used to flavor and color foods; corn tortilla mix, corn meal, frozen confections, and cornmeal fritter mix; wine vinegar

U.S. Registration No.	764033	Application Date	01/15/1963
Registration Date	01/28/1964	Foreign Priority Date	NONE
Word Mark	GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U046 (International Class 029, 030). First use: First Use: 1939/08/00 First Use In Commerce: 1939/08/00 Coffee, and Edible Olive Oil		

U.S. Registration No.	962193	Application Date	07/14/1972
Registration Date	06/26/1973	Foreign Priority Date	NONE


Word Mark	GOYA
Design Mark	
Description of Mark	NONE
Goods/Services	Class U046 (International Class 001, 005, 029, 030, 031, 032). First use: First Use: 1939/08/00 First Use In Commerce: 1939/08/00 BEEF STEW, VIENNA SAUSAGE, CANNED FRUITJUICES, CEREAL, CORN MEAL, HOMINY, CRACKERS, EDIBLE OILS, CORN OIL, OLIVE OIL, FRUIT SYRUP, [SESAME SEED SYRUP,]GRAPEJUICE, JELLIES AND PRE-SERVES, MAYONNAISE, OLIVES, RICE, SOUPS, SPAGHETTI, SPICES, SALT, PEPPER, OREGANO, VINEGAR, FLAVORING EXTRACTS, MEAT SAUCE, SWEET CHOCOLATE, TOMATO SAUCE, CHEESE, CREAM OF COCONUT, CANNED VEGETABLES, PAPAYA NECTAR, PEACH NECTAR, GUAVA NECTAR, SPAGHETTI AND MEAT BALLS, MEAT SAUCE AND CON-DIMENT, BREADFUIT; PREPARED SEA FOOD-NAMELY, SHRIMP, SPICED SHRIMP, AND [LOBSTER GUMBO,]CANNED FISH, PASTELES, PUERTO RICAN SANCOCHO, FRUIT COCKTAIL, PREPARED COCONUT,AND FLAN CUSTARD

U.S. Registration No.	1354559	Application Date	06/18/1984
Registration Date	08/13/1985	Foreign Priority Date	NONE
Word Mark	GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1959/04/06 First Use In Commerce: 1959/04/06 MALTA, NAMELY A NON-ALCOHOLIC MALT BEVERAGES		

U.S. Registration No.	1695011	Application Date	07/30/1990
Registration Date	06/16/1992	Foreign Priority Date	NONE
Word Mark	GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1965/00/00 First Use In Commerce: 1965/00/00 catering services		

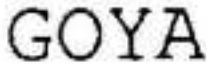
U.S. Registration	1689199	Application Date	03/04/1991
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No.			
Registration Date	05/26/1992	Foreign Priority Date	NONE
Word Mark	GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1991/01/14 First Use In Commerce: 1991/01/14 coffee		

U.S. Registration No.	2653723	Application Date	06/05/2001
Registration Date	11/26/2002	Foreign Priority Date	NONE
Word Mark	GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1968/10/15 First Use In Commerce: 1968/10/15 Pens, posters, [writing paper, printed material, namely, price lists, mail order catalogs featuring clocks, pot holders,] [aprons,] [magnetic note pads, note pads, cooking utensils, clothing, backpacks, toys, key rings, bibs for children,] drinking utensils, [cooler bags, writing instruments and umbrellas; notepads,] and cookbooks		


U.S. Registration No.	3640777	Application Date	03/14/2008
Registration Date	06/16/2009	Foreign Priority Date	NONE
Word Mark	GOYA		
Design Mark			
Description of Mark	NONE		


Goods/Services	Class 043. First use: First Use: 2008/04/07 First Use In Commerce: 2008/04/07 Carry-out restaurants; Catering; Catering in fast-food cafeterias; Catering of food and drinks; Restaurant and catering services; Restaurant, bar and catering services; Fast-food restaurants; Food preparation services; Preparation of food and beverages; Restaurant services; Coffee-house and snack-bar services; Snack bars; Serving food and drinks; Contract food services
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U.S. Registration No.	2502127	Application Date	04/14/2000
Registration Date	10/30/2001	Foreign Priority Date	NONE
Word Mark	GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1939/08/00 First Use In Commerce: 1939/08/00 Processed fruits and vegetables; dried fruits and vegetables; meats; seafood and fish; applesauce and cranberry sauce; processed olives; dried corn husks; snack foods, namely, plantain chips, potato chips, yucca chips and pork rinds; processed nuts and processed edible seeds; jams, jellies and fruit preserves; pickles; processed garlic, processed artichokes; processed pimentos; tomato paste; processed hot peppers; soups; meat extracts, and bouillon; edible oils and fats; prepared entrees consisting primarily of meat, poultry, fish or vegetables; milk; cheese; and lard		


U.S. Registration No.	3654004	Application Date	12/10/2008
Registration Date	07/14/2009	Foreign Priority Date	NONE
Word Mark	GOYA LATIN CAFÉ#		
Design Mark			
Description of Mark	NONE		

Goods/Services	Class 043. First use: First Use: 2008/04/00 First Use In Commerce: 2008/04/00 Carry-out restaurants; Fast-food restaurants; Fast-food restaurants and snack-bars; Food preparation services; Restaurant services; Snack bars		
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U.S. Registration No.	3825092	Application Date	01/04/2010
Registration Date	07/27/2010	Foreign Priority Date	NONE
Word Mark	GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2005/10/07 First Use In Commerce: 2005/10/07 Computerized on-line retail store services in the field of foods and beverages;Retail grocery stores; Retail store services featuring foods and beverages		


U.S. Registration No.	3570054	Application Date	08/05/2008
Registration Date	02/03/2009	Foreign Priority Date	NONE
Word Mark	GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1939/08/00 First Use In Commerce: 1939/08/00 Applesauce; Artichoke paste; Bouillon; Cheese; Cheese food; Chili; Cranberry sauce; Dairy products excluding ice cream,ice milk and frozen yogurt; Dried fruitand vegetables; Dried fruit mixes; Dried fruits; Dried meat; Edible fats; Edible oils; Fish; Fish croquettes; Frozen fruits; Frozen vegetables; Fruit paste; Fruit preserves; Fruit-based snack food; Instant or pre-cooked soup; Jams; Lard; Meat; Meat extracts; Milk; Olive oil; Pickled vegetables; Pork; Pork rinds; Poultry; Preserved fruits; Processed artichokes; Processed coconut; Processed meat; Processed olives; Processed vegetables; Seafood; Snack mix consisting primarily of processed fruits, processed nuts and/or raisins; Soups; Vegetable		

	<p>chips; Vegetable oils; Vegetable-based snack foods; vegetable, fish, and meat croquettes</p> <p>Class 030. First use: First Use: 1939/08/00 First Use In Commerce: 1939/08/00 Alimentary paste; Bakery desserts; Bakery goods; Barbecue sauce; Burritos; Candy; Capers; Chocolate; Chocolates and chocolate based ready to eat candies and snacks; Cocoa; Coffee; Corn fritters; Custards; Dumplings; Empanadas; Enchiladas; Fajitas; Fish dumplings; Flour; Food seasonings; Frozen confections; Grain-based food beverages; Grain-based snack foods; Hominy; Honey; Hot sauce; Marinades; Mixes for bakery goods; Mixes for making baking batters; Mixes for making batter for hushpuppies; Mixes for making batters for fried foods; Noodles; Pastries; Pepper; Picante sauce; Rice; Rice-based snack foods; Salsa; Sauces; Seasoned coating for meat, fish, poultry; Seasoned coating mixtures for foods; Seasonings; Snack cakes; Spices; Taco chips; Tacos; Tamales; Tapioca; Tomato sauce; Tortilla chips; Tortillas; Vinegar; Wine vinegar</p> <p>Class 032. First use: First Use: 1959/04/06 First Use In Commerce: 1959/04/06 Fruit nectars; Fruits drinks and fruit juices; Non-alcoholic malt beverage; Soft drinks; Syrups for making soft drinks; Vegetable juice</p>
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U.S. Registration No.	4462937	Application Date	04/02/2010
Registration Date	01/07/2014	Foreign Priority Date	NONE
Word Mark	LA COCINA GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 029. First use: First Use: 1997/00/00 First Use In Commerce: 2011/02/00 Fish; meat; processed meat; processed vegetables; seafood; soups; processed entrees consisting primarily of meat, fish, poultry or vegetables</p> <p>Class 030. First use: First Use: 1997/00/00 First Use In Commerce: 2011/02/00 Food flavorings; food seasonings; marinades; processed entrees consisting primarily of pasta or rice</p> <p>Class 041. First use: First Use: 1997/00/00 First Use In Commerce: 2012/03/00 Education services, namely, providing live and on-line demonstrations, classes, seminars, workshops, and audio visual presentations in the field of food, beverages, food and beverage preparation and pairings, recipes, history, current affairs, local interests and cultural affairs; educational services, namely, cooking-demonstrations; providing a website featuring entertainment information</p>		

U.S. Registration No.	4462955	Application Date	05/18/2010
Registration Date	01/07/2014	Foreign Priority Date	NONE
Word Mark	LA COCINA GOYA		

Design Mark	
Description of Mark	The mark consists of the stylized words "LA COCINA GOYA" with a fanciful spoon design appears under the word "GOYA".
Goods/Services	<p>Class 029. First use: First Use: 1997/00/00 First Use In Commerce: 2011/02/00 Fish; meat; processed meat; processed vegetables; seafood; soups; processed entrees consisting primarily of meat, fish,poultry or vegetables</p> <p>Class 030. First use: First Use: 1997/00/00 First Use In Commerce: 2011/02/00 Food flavorings; food seasonings; marinades; processed entrees consisting primarily of pasta or rice</p> <p>Class 041. First use: First Use: 1997/00/00 First Use In Commerce: 2012/03/00 Education services, namely, providing live and on-line demonstrations, classes,seminars, workshops, and audio visual presentations in the field of food, beverages, food and beverage preparation and pairings, recipes, history, current affairs, local interests and cultural affairs; educational services, namely, cooking-demonstrations; providing a website featuring entertainment information</p>

U.S. Registration No.	2735075	Application Date	12/10/1999
Registration Date	07/08/2003	Foreign Priority Date	NONE
Word Mark	LA COCINA GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 030. First use: First Use: 1997/00/00 First Use In Commerce: 1997/00/00 [ALIMENTARY PASTE, CAPERS, CHILI POWDERS, COFFEE, HONEY, HOT SAUCE,] MARINADES [, SPICES AND SALT,] SALSA [, TOMATO SAUCE]</p>		

U.S. Registration No.	1859228	Application Date	09/21/1992
Registration Date	10/18/1994	Foreign Priority Date	NONE
Word Mark	JOYAS DE GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1994/03/00 First Use In Commerce: 1994/03/00 [rice,] spices [and coffee]		

U.S. Registration No.	1857320	Application Date	09/21/1992
Registration Date	10/04/1994	Foreign Priority Date	NONE
Word Mark	JOYAS DE GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1994/03/00 First Use In Commerce: 1994/03/00 canned fruits and vegetables		

U.S. Registration No.	1860499	Application Date	09/21/1992
Registration Date	10/25/1994	Foreign Priority Date	NONE
Word Mark	JOYAS DE GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 032. First use: First Use: 1994/03/00 First Use In Commerce: 1994/03/00 [fruit drinks,] soft drinks, and maltsyruys for beverages		

U.S. Registration No.	966178	Application Date	11/16/1972
Registration Date	08/14/1973	Foreign Priority Date	NONE
Word Mark	GOYA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class U046 (International Class 001, 005, 029, 030, 031, 032). First use: First Use: 1939/08/00 First Use In Commerce: 1939/08/00 POTTED MEAT, PUERTO RICAN SAUCE WITH MEAT, [PIGS EARS AND HOG STOMACHS IN SAUCE,] FLAVORED PORK LARD, [RAVIOLI IN MEAT SAUCE, GOAT MEAT STEW, PIGS FEET, CACHIFRITO IN SAUCE, CHICKEN GUMBO,] HOT PEPPERS, AND BEEF TRIPE STEW		

U.S. Application/ Registration No.	NONE	Application Date	NONE
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Registration Date	NONE
Word Mark	COCO GOYA
Goods/Services	non-alcoholic cocktail mixes

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	REFRESCO GOYA		
Goods/Services	soft drinks, namely, sodas; ginger beer		

Attachments	78701470#TMSN.png(bytes) 85566098#TMSN.png(bytes) 78451791#TMSN.png(bytes) 72429883#TMSN.png(bytes) 76267384#TMSN.png(bytes) 77421878#TMSN.png(bytes) 78004128#TMSN.png(bytes) 77630588#TMSN.png(bytes) 77904649#TMSN.png(bytes) 77539854#TMSN.png(bytes) 85004980#TMSN.png(bytes) 85041442#TMSN.png(bytes) 75867700#TMSN.png(bytes) Baker-Rannells141120140250.pdf(107308 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ryan A. McGonigle/
Name	Ryan A. McGonigle
Date	11/20/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

GOYA FOODS, INC.,

Opposer,

Mark: GOZA (Word Mark)

Serial No.: 86147227

Filed: October 21, 2014

v.

GOZA TEQUILA, LLC,

Applicant.

NOTICE OF OPPOSITION PURSUANT TO 15 U.S.C. § 1063

Opposer, Goya Foods, Inc. (hereinafter, “Opposer” or “Goya”), a corporation organized under the laws of the State of Delaware and located and doing business at 100 Seaview Drive, Secaucus, New Jersey 07096, believes that it will be damaged by the registration of the mark, GOZA, shown in Application Serial No. 86147227, which was filed on December 18, 2013 by Goza Tequila, LLC, a limited liability company of the State of Georgia doing business at 1109 Valley Overlook Drive, NE Atlanta, Georgia 30324 (hereinafter, “Applicant” or “Goza”), and hereby opposes the same under the provisions of 15 U.S.C. §1063 (Trademark Act of 1946, Section 13).

As grounds for opposition, Opposer alleges the following:

1. On January 13, 2014, Applicant filed an application under Section 1(b) of the Lanham Act to register the mark GOZA (hereinafter, “Applicant’s Mark”) for “distilled spirits” in International Class 033 (hereinafter, “Applicant’s Goods”). Applicant’s Mark was published for opposition purposes in the *Official Gazette* on October 21, 2014.

2. Opposer is the owner of U.S. Trademark Reg. No. 3210454 for **GOYA** for “cooking wine” in International Class 033 (hereinafter, “the ‘454 Registration”).

3. The ‘454 Registration, registered in the United States Patent and Trademark Office since February 20, 2007, is incontestable.


4. For over 75 years in the United States, Opposer has been trading as and known by Opposer’s Marks (as defined hereinbelow) in connection with the sale and production of a wide variety of consumer goods, including, food, beverages, restaurant/catering services, and related retail services (hereinafter, “Opposer’s Goods and Services”), identifying Opposer as the source of Opposer’s Goods and Services, the same being substantially identical and generally related to Applicant’s Goods under its alleged mark, GOZA.

5. Since long prior to any date which may be claimed by Applicant, Opposer has been and is now engaged in the use of Opposer's Marks (as defined hereinbelow) and trade name on and in association with Opposer's Goods and Services including *inter alia*, those identified in paragraph 2, and paragraph 6 and 7 hereinbelow, in interstate commerce.

6. Together with the ‘454 Registration identified above, Opposer is the owner of, *inter alia*, the following U.S. trademark registrations, all of which are in good order, and in the name of and owned by Opposer:

TRADEMARK	REGISTRATION NO.	CLASS/GOODS
SI ES GOYA TIENE QUE SER BUENO	4210054	032/Fruit beverages; Fruit drinks; Fruit-based beverages; Fruit-flavored beverages; non-alcoholic beverages containing fruit juices.
...IF IT IS GOYA IT HAS TO BE GOOD*	3001516	030/ Tomato sauce; salad dressing; hot sauce, salsa, ketchup; hot pepper spice; alimentary paste, bakery goods, barbecue sauce, biscuits, breadcrumbs, burritos, candy, capers, cereal based snack foods, spices and seasonings, tortilla chips, chocolate for baking,

TRADEMARK	REGISTRATION NO.	CLASS/GOODS
		coffee, corn chips, cookies, crackers, custards, empanadas, enchiladas, frozen entrees consisting primarily of rice or pasta, extracts used as flavoring, fajitas, flavoring syrup, flour; grain based food beverages, food starch; flavored, sweetened gelatin desserts; honey; noodles, picante sauce, puddings, chili sauce; table syrup, taco chips, tamales; vinegar, cocoa, pastries; rice, prepared entrees consisting primarily of rice, tapioca, yeast, treacle, salt, condiments, namely, sofrito, adobo, sazón, recato, marinades and mojo; wine sauce for cooking; food extracts consisting of a combination of annatto and lard used to flavor and color foods; corn tortilla mix, corn meal, frozen confections, and cornmeal fritter mix; wine vinegar.
GOYA*	0764033	US 046/Coffee, and edible olive oil.
GOYA*	0962193	US 046/Beef stew, Vienna sausage, etc.
GOYA*	1354559	032/Malta, namely a non-alcoholic malt beverages.
GOYA*	1695011	042/Catering services.
GOYA*	1689199	030/Coffee.
GOYA*	2653723	016/Pens, posters, drinking utensils, and cookbooks.
GOYA*	3640777	043/Carry-out restaurants; catering; catering in fast-food cafeterias; Catering of food and drinks; Restaurant and catering services; Restaurant, bar and catering services; Fast-food restaurants; Food preparation services; Preparation of food and beverages; Restaurant services; Coffee-house and snack-bar services; Snack bars; Serving food and drinks; Contract food services.
GOYA*	2502127	029/ Processed fruits and vegetables; dried fruits and vegetables; meats; seafood and fish; applesauce and cranberry sauce; processed olives; dried

TRADEMARK	REGISTRATION NO.	CLASS/GOODS
		corn husks; snack foods, namely, plantain chips, potato chips, yucca chips and pork rinds; processed nuts and processed edible seeds; jams, jellies and fruit preserves; pickles; processed garlic, processed artichokes; processed pimientos; tomato paste; processed hot peppers; soups; meat extracts, and bouillon; edible oils and fats; prepared entrees consisting primarily of meat, poultry, fish or vegetables; milk; cheese; and lard.
GOYA LATIN CAFÉ	3654004	043/Carry-out restaurants; Fast-food restaurants; Fast-food restaurants and snackbars; Food preparation services; Restaurant services; Snack bars
GOYA	3825092	035/Computerized on-line retail store services in the field of foods and beverages; Retail grocery stores; Retail store services featuring foods and beverages.
GOYA	3570054	029/Applesauce, etc.; 030/Alimentary paste, etc.; and 032/Fruit nectars, etc.
LA COCINA GOYA	4462937	029/Fish, etc.; 030/Food flavorings, etc.; and 041/Education services, namely, providing live and on-line demonstrations, classes, seminars, workshops, and audio visual presentations in the field of food, beverages, food and beverage preparation and pairings, recipes, history, current affairs, local interests and cultural affairs, etc.
	4462955	029/Fish, etc.; 030/Food flavorings, etc.; and 041/Education services, namely, providing live and on-line demonstrations, classes, seminars, workshops, and audio visual presentations in the field of food, beverages, food and beverage preparation and pairings, recipes, history, current affairs, local interests and cultural affairs, etc.
LA COCINA GOYA*	2735075	030/Marinades, salsa.
JOYAS DE GOYA*	1859228	030/Spices.

TRADEMARK	REGISTRATION NO.	CLASS/GOODS
JOYAS DE GOYA*	1857320	029/Canned fruits and vegetables.
JOYAS DE GOYA*	1860499	032/Soft drinks and malt syrups for beverages.
GOYA*	0966178	US 46/Potted meat, etc.

*denotes an incontestable registration.

7. Opposer also owns common law rights in COCO GOYA and REFRESCO GOYA for “non-alcoholic cocktail mixes” and “soft drinks, namely, sodas; ginger beer,” respectively. Collectively, the ‘454 Registration and the registrations listed hereinabove in Paragraph 6 and the common law marks listed in the instant paragraph will be collectively referred to as Opposer’s Marks.

8. Priority is not an issue. Because of Opposer’s 75+ years of use of Opposer’s Marks in the United States in connection with Opposer’s Goods and Services, Opposer has priority in Opposer’s Marks for products in International Class 033, long prior to any date which may be claimed by Applicant.

9. Opposer’s Marks have been continuously used and widely advertised and promoted in the United States from 1936 to the present and is and has been used in conjunction with and in the sponsorship of many civic, cultural and artistic activities.

10. As a result of long use, widespread advertising and promotion, and successful sales, advertising and promotion for over 75 years, Opposer’s Marks have become distinctive and famous, long prior to the date Applicant filed the application in issue.

11. Upon information and belief, Applicant intends to distribute and sell Applicant’s Goods through the same channels of trade as Opposer, and directs its respective goods to the same ultimate consumer as Opposer.

12. Applicant’s Goods are of the sort that are typically: (i) consumed in tandem with or mixed in recipes with the goods sold by Opposer under Opposer’s Marks; and (ii) sold by

restaurants, caterers or other retail food establishments such as that which Opposer provides under Opposer's Marks.

13. Upon information and belief, Applicant intends to distribute and sell tequila—which according to 27 C.F.R. §5.22(g)—“is an alcoholic distillate from a fermented mash derived principally from the Agave Tequilana Weber ('blue' variety), with or without additional fermentable substances, distilled in such a manner that the distillate possesses the taste, aroma, and characteristics generally attributed to Tequila and bottled at not less than 80° proof, and also includes mixtures solely of such distillates. Tequila is a distinctive product of Mexico, manufactured in Mexico in compliance with the laws of Mexico regulating the manufacture of Tequila for consumption in that country.”

14. Opposer produces a line of authentic Mexican food products produced in Mexico under Opposer's Marks for sale in the United States.

15. Opposer also produces a blue agave sweetener under the GOYA mark—which can be used as a sugar substitute to sweeten or as an ingredient in any food or beverage product, including but not limited to margaritas, which are made with Applicant's Goods.

16. The goods of Applicant and Opposer are in part identical and in part generally related, and Applicant's use of Applicant's Mark in connection with Applicant's Goods is without the consent or permission of Opposer.

I. LIKELIHOOD OF CONFUSION

17. The Opposer's Marks and Applicant's Mark are confusingly similar when applied to the goods of the parties.

18. Since Opposer owns Opposer's Marks by virtue of prior use, mistake or deception as to the source of origin of the goods will arise and will injure and damage Opposer and its goodwill.

19. The registration of the Applicant's Mark to Applicant will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's Goods are made by, licensed by, controlled by, sponsored by, or in some way connected, related or associated with Opposer, all to Opposer's irreparable damage.

II. DILUTION

20. Opposer repeats and re-alleges paragraphs 1-19 above with the same force and effect as if set forth herein at length.

21. Opposer's GOYA mark is famous, being widely recognized by the general consuming public of the United States as a designation of source of Opposer's Goods and Services.

22. The registration of Applicant's Mark to Applicant is likely to cause dilution by blurring the distinctiveness of Opposer's GOYA mark, all to Opposer's irreparable damage.

23. Opposer's customers have come to recognize that Opposer produces a wide array of goods and services under Opposer's Marks, such that the inevitable association of Applicant's Goods is likely to cause dilution by tarnishment, thus harming the reputation of Opposer and its famous GOYA mark.

24. Upon information and belief, service is proper upon Applicant as follows:

Mark L. Seigel, Esq.
The Seigel Law Firm LLC
1827 Powers Ferry Road N.E., Bldg. 6
Suite 201
Atlanta, Georgia 30339

WHEREFORE, Opposer prays that the application for registration of Applicant's Mark, Serial No. 86147227, filed on December 18, 2013 for GOZA, be denied and that this Notice of Opposition be sustained.

Dated: November 20, 2014

Respectfully submitted for Opposer,
GOYA FOODS, INC.

By:

A handwritten signature in black ink, appearing to read "Stephen L. Baker".

Stephen L. Baker, Esq.

Ryan A. McGonigle, Esq.

BAKER and RANNELLS, PA

575 Route 28, Suite 102

Raritan, New Jersey 08869

(908) 722-5640

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Opposer's Notice of Opposition by first class postage prepaid mail by depositing the same with the U.S. Postal Service on this 20th day of November, 2014 to Applicant at the following address:

Mark L. Seigel, Esq.
The Seigel Law Firm LLC
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Ryan A. McGonigle